

By: West

S.B. No. 355

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the powers and duties of the Title IV-D agency regarding
3 the establishment, collection, and enforcement of child support and
4 in connection with an application for a marriage license or
5 protective order; providing an administrative fine.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Section 2.009(c), Family Code, is amended to
8 read as follows:

9 (c) On the proper execution of the application, the clerk
10 shall:

11 (1) prepare the license;

12 (2) enter on the license the names of the licensees,
13 the date that the license is issued, and, if applicable, the name of
14 the person appointed to act as proxy for an absent applicant, if
15 any;

16 (3) record the time at which the license was issued;

17 (4) distribute to each applicant printed materials
18 about acquired immune deficiency syndrome (AIDS) and human
19 immunodeficiency virus (HIV) and note on the license that the
20 distribution was made; and

21 (5) inform [~~distribute to~~] each applicant:

22 (A) that a premarital education handbook
23 developed [~~provided~~] by the child support division of the office of
24 the attorney general under Section 2.014 is available on the child

1 support division's Internet website; or

2 (B) if the applicant does not have Internet
3 access, how the applicant may obtain a paper copy of the handbook
4 described by Paragraph (A).

5 SECTION 2. Sections 2.014(b) and (c), Family Code, are
6 amended to read as follows:

7 (b) Money in the trust fund is derived from depositing \$3 of
8 each marriage license fee as authorized under Section 118.018(c),
9 Local Government Code, and may be used only for:

10 (1) the development [~~and distribution~~] of a premarital
11 education handbook;

12 (2) grants to institutions of higher education having
13 academic departments that are capable of research on marriage and
14 divorce that will assist in determining programs, courses, and
15 policies to help strengthen families and assist children whose
16 parents are divorcing;

17 (3) support for counties to create or administer free
18 or low-cost premarital education courses;

19 (4) programs intended to reduce the amount of
20 delinquent child support; and

21 (5) other programs the attorney general determines
22 will assist families in this state.

23 (c) The premarital education handbook under Subsection
24 (b)(1) shall be made available [~~distributed~~] to each applicant for
25 a marriage license as provided by Section 2.009(c)(5) and shall
26 contain information on:

27 (1) conflict management;

- 1 (2) communication skills;
- 2 (3) children and parenting responsibilities; and
- 3 (4) financial responsibilities.

4 SECTION 3. Section 82.004, Family Code, is amended to read
5 as follows:

6 Sec. 82.004. CONTENTS OF APPLICATION. An application must
7 state:

- 8 (1) the name and county of residence of each
9 applicant;
- 10 (2) the name and county of residence of each
11 individual alleged to have committed family violence;
- 12 (3) the relationships between the applicants and the
13 individual alleged to have committed family violence; ~~and~~
- 14 (4) a request for one or more protective orders; and
- 15 (5) whether an applicant is receiving services from
16 the Title IV-D agency in connection with a child support case and,
17 if known, the agency case number for each open case.

18 SECTION 4. Section 85.042(a), Family Code, is amended to
19 read as follows:

20 (a) The clerk of the court issuing an original or modified
21 protective order under this subtitle shall send a copy of the order,
22 along with the information provided by the applicant or the
23 applicant's attorney that is required under Section 411.042(b)(6),
24 Government Code, to:

- 25 (1) the chief of police of the municipality in which
26 the person protected by the order resides, if the person resides in
27 a municipality;

1 (2) [~~, or to~~] the appropriate constable and the
2 sheriff of the county in which the person resides, if the person
3 does not reside in a municipality; and

4 (3) the Title IV-D agency, if the application for the
5 protective order indicates that the applicant is receiving services
6 from the Title IV-D agency.

7 SECTION 5. Section 156.401(a-2), Family Code, is amended to
8 read as follows:

9 (a-2) A court or administrative order for child support in a
10 Title IV-D case may be modified at any time, and without a showing
11 of material and substantial change in the circumstances of the
12 child or a person affected by the order, [as provided under Section
13 233.013(c)] to provide for medical support of the [a] child if the
14 order does not provide health care coverage as required under
15 Section 154.182.

16 SECTION 6. Section 158.106, Family Code, is amended to read
17 as follows:

18 Sec. 158.106. REQUIRED FORMS FOR INCOME WITHHOLDING. (a)
19 The Title IV-D agency shall prescribe forms as required by federal
20 law in a standard format entitled order or notice to withhold income
21 for child support under this chapter.

22 (b) The Title IV-D agency shall make the required
23 [appropriate] forms available to obligors, obligees, domestic
24 relations offices, friends of the court, clerks of the court, and
25 private attorneys.

26 (c) The Title IV-D agency may prescribe additional forms for
27 the efficient collection of child support from earnings and to

1 promote the administration of justice for all parties.

2 (d) The forms prescribed by the Title IV-D agency under this
3 section shall ~~may~~ be used:

4 (1) for an order or judicial writ of income
5 withholding under this chapter; and

6 (2) to request voluntary withholding under Section
7 158.011.

8 SECTION 7. Section 158.203, Family Code, is amended by
9 amending Subsection (d) and adding Subsections (e) and (f) to read
10 as follows:

11 (d) In a case in which an obligor's income is subject to
12 withholding, the employer shall remit the payment of child support
13 directly to ~~[a local registry, the Title IV-D agency, or to]~~ the
14 state disbursement unit.

15 (e) The Title IV-D agency may impose a fine in an amount not
16 to exceed \$25 for each violation by an employer described by
17 Subsection (b) who fails without good cause to use electronic funds
18 transfer or electronic data interchange to comply with this
19 section. Each occurrence of noncompliance with respect to each
20 employee constitutes a separate violation.

21 (f) A court may compel compliance with an administrative
22 fine described by Subsection (e) and may award attorney's fees and
23 costs to the Title IV-D agency in enforcing the electronic funds
24 transfer or electronic data interchange requirement under
25 Subsection (b) on proof that the employer failed without good cause
26 to comply with that requirement.

27 SECTION 8. Section 201.101(e), Family Code, is amended to

1 read as follows:

2 (e) If a county has entered into a contract with the Title
3 IV-D agency under Section 231.0011, enforcement services may be
4 directly provided in cases identified under the contract by county
5 personnel as provided under Section 231.0011(d), including judges
6 and associate judges of the courts of the county.

7 SECTION 9. Section 231.002, Family Code, is amended by
8 adding Subsection (j) to read as follows:

9 (j) In the enforcement or modification of a child support
10 order, the Title IV-D agency is not:

11 (1) subject to:

12 (A) a mediation or arbitration clause in the
13 order; or

14 (B) any other mediation or arbitration agreement
15 affecting the order to which the Title IV-D agency was not a party;
16 or

17 (2) liable for any costs associated with mediation or
18 arbitration arising from provisions in the order or another
19 agreement of the parties.

20 SECTION 10. Section 232.0135(a), Family Code, is amended to
21 read as follows:

22 (a) A child support agency, as defined by Section 101.004,
23 may provide notice to a licensing authority concerning an obligor
24 who has failed to pay child support under a support order for six
25 months or more that requests the authority to refuse to approve
26 [~~accept~~] an application for issuance of a license to the obligor or
27 renewal of an existing license of the obligor.

1 SECTION 11. Sections 233.013(a) and (b), Family Code, are
2 amended to read as follows:

3 (a) The Title IV-D agency may use any information obtained
4 by the agency from the parties or any other source and shall apply
5 the child support guidelines provided by this code to determine the
6 appropriate amount of child support. In determining the
7 appropriate amount of child support, the agency may consider
8 evidence of the factors a court is required to consider under
9 Section 154.123(b), and, if the agency deviates from the guidelines
10 in determining the amount of monthly child support, with or without
11 the agreement of the parties, the child support review order must
12 include the findings required to be made by a court under Section
13 154.130(b).

14 (b) If it has been three years since a child support order
15 was rendered or last modified and the amount of the child support
16 award under the order differs by either 20 percent or \$100 from the
17 amount that would be awarded under the child support guidelines,
18 the Title IV-D agency may [~~shall~~] file an appropriate child support
19 review order, including an order that has the effect of modifying an
20 existing court or administrative order for child support without
21 the necessity of filing a motion to modify.

22 SECTION 12. Section 233.019, Family Code, is amended by
23 adding Subsection (e) to read as follows:

24 (e) If a party timely files a motion for a new trial for
25 reconsideration of an agreed review order and the court grants the
26 motion, the agreed review order filed with the clerk constitutes a
27 sufficient pleading by the Title IV-D agency for relief on any issue

1 addressed in the order.

2 SECTION 13. The heading to Section 233.027, Family Code, is
3 amended to read as follows:

4 Sec. 233.027. NONAGREED ORDER AFTER HEARING [~~; EFFECT OF~~
5 ~~CONFIRMATION ORDER~~].

6 SECTION 14. Sections 233.027(a) and (c), Family Code, are
7 amended to read as follows:

8 (a) After the hearing on the confirmation of a nonagreed
9 child support review order, the court shall:

10 (1) if the court finds that the nonagreed order should
11 be confirmed, immediately sign the nonagreed [~~a confirmation~~] order
12 and enter the order as a final [~~an~~] order of the court;

13 (2) if the court finds that the relief granted in the
14 nonagreed child support review order is inappropriate, sign an
15 appropriate order at the conclusion of the hearing or as soon after
16 the conclusion of the hearing as is practical and enter the order as
17 an order of the court; or

18 (3) if the court finds that all relief should be
19 denied, enter an order that denies relief and includes specific
20 findings explaining the reasons that relief is denied.

21 (c) If the party who requested the hearing fails to appear
22 at the hearing, the court shall sign the nonagreed [~~a confirmation~~]
23 order and enter the order as an order of the court.

24 SECTION 15. Sections 234.007(a), (b), and (c), Family Code,
25 are amended to read as follows:

26 (a) A [~~The Title IV-D agency shall notify the courts that~~
27 ~~the state disbursement unit has been established. After receiving~~

1 ~~notice of the establishment of the state disbursement unit, a]~~
2 court that orders income to be withheld for child support shall
3 order that all income ordered withheld for child support shall be
4 paid to the state disbursement unit.

5 (b) In order to redirect payments [~~from a local registry~~] to
6 the state disbursement unit [~~after the date of the establishment of~~
7 ~~the state disbursement unit~~], the Title IV-D agency shall issue a
8 notice of place of payment informing the obligor, obligee, and
9 employer that income withheld for child support is to be paid to the
10 state disbursement unit and may not be remitted to a local registry,
11 the obligee, or any other person or agency. If withheld support has
12 been paid to a local registry, the Title IV-D agency shall send the
13 notice to the registry to redirect any payments to the state
14 disbursement unit.

15 (c) A copy of the notice under Subsection (b) shall be filed
16 with the court of continuing jurisdiction [~~and with the local child~~
17 ~~support registry~~].

18 SECTION 16. Section 234.101, Family Code, is amended by
19 adding Subdivision (3) to read as follows:

20 (3) "Newly hired employee" means an employee who:
21 (A) has not been previously employed by the
22 employer; or
23 (B) was previously employed by the employer but
24 has been separated from that employment for at least 60 consecutive
25 days.

26 SECTION 17. Section 233.027(b), Family Code, is repealed.

27 SECTION 18. (a) The changes in law made by this Act to

1 Sections 2.009 and 2.014, Family Code, apply only to an application
2 for a marriage license submitted on or after the effective date of
3 this Act. An application for a marriage license submitted before
4 the effective date of this Act is governed by the law in effect on
5 the date the application was submitted, and the former law is
6 continued in effect for that purpose.

7 (b) The changes in law made by this Act to Sections 82.004
8 and 85.042, Family Code, apply only to an application for a
9 protective order filed on or after the effective date of this Act.
10 An application for a protective order filed before the effective
11 date of this Act is governed by the law in effect on the date the
12 application was filed, and the former law is continued in effect for
13 that purpose.

14 (c) The change in law made by this Act to Section
15 158.203(d), Family Code, applies only to a child support
16 withholding remitted by an employer on or after the effective date
17 of this Act. A child support withholding remitted by an employer
18 before the effective date of this Act is governed by the law in
19 effect on the date the withholding was remitted, and the former law
20 is continued in effect for that purpose.

21 (d) The change in law made by this Act to Section 158.203,
22 Family Code, in adding Subsections (e) and (f) applies only to an
23 act of noncompliance that occurs on or after the effective date of
24 this Act. An act of noncompliance that occurs before the effective
25 date of this Act is governed by the law in effect on the date the act
26 occurred, and the former law is continued in effect for that
27 purpose.

1 (e) The changes in law made by this Act to Section 233.013,
2 Family Code, apply only to a child support review order filed on or
3 after the effective date of this Act. A child support review order
4 filed before the effective date of this Act is governed by the law
5 in effect on the date the order was filed, and the former law is
6 continued in effect for that purpose.

7 (f) The change in law made by this Act to Section 233.019,
8 Family Code, applies only to a motion for a new trial filed on or
9 after the effective date of this Act. A motion for a new trial filed
10 before the effective date of this Act is governed by the law in
11 effect on the date the motion was filed, and the former law is
12 continued in effect for that purpose.

13 (g) The change in law made by this Act to Section 233.027,
14 Family Code, applies to a child support review order that is pending
15 before a trial court on or filed on or after the effective date of
16 this Act.

17 SECTION 19. This Act takes effect September 1, 2013.